Approved For Release 2004/08/19 : CIA-RDP81M00980R000890050057-7

OLC 78-0200 31 January 1978

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MEMORANDUM FOR THE RECORD

prove damages.

SUBJECT: Federal Tort Claims Act

STAT	1. In early January, I met with and
STAT	both of OGC. They were concerned about a
	possible impact of the revisions of the Federal Tort Claims
	Act (S. 2117) on the Agency's ability to protect the identify
	of employees involved in civil suits.
STAT	2. Currently, the Government does not assume
) I A I	liability for torts committed by employees overseas. In
•	cases involving its employees, the Agency files a memorandum
	which argues the need for secrecy as a reason for not disclosing
	the employee's identity. To date, federal district courts have
	agreed. OGC was concerned that the aggrieved party could argue
	that, because under the revision the Federal Government still
	would not assume liability for torts committed overseas, Congress
	intended that the individual be liable for overseas torts, else
	it would have provided that the Federal Government be liable.
	The result, feared by OGC, could be that the Agency's Secrecy
	Agreement would be rebutted by this argument of implied
•	Congressional intent.
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STAT	3. On 25 January 1978, I discussed this with
	Irving Jaffe, Deputy Assistant Attorney General, Civil Division

He said that the Department of Justice was going to amend the proposed legislation to include constitutional torts committed

torts for which the suits involving the Agency have brought.

of disclosure of an employee's identity, the Government could possibly assume liability and require the plaintiff merely to

overseas within the scope of the Act. This is the type category of

He added that, if a situation arose which still presented problems

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				can be developed within one day. The Committee staff is still operating under the
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4.					. 7-9:	this week, which means any changes that will be made wi have to be made early
5.						tomorrow. If possible, coul your office review this draft today and let me have
<b>6.</b>			H. Brow			any comments. Given the almost unrealistic time restraints, and realizing we
7.						cannot provide studied and if fully considered views within this time frame, we would
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